

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Papan Analyst: Jeani Brent Bill Number: AB 1271

Related Bills: See Prior Analysis Telephone: 845-3410 Amended Date: 06/23/98

Attorney: Doug Bramhall

Sponsor:

SUBJECT: Exemption/Corporations Whose Only Presence in California is Inventory Storage

- x DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended July 14, 1997.
- AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended .
- FURTHER AMENDMENTS NECESSARY.
- DEPARTMENT POSITION CHANGED TO .
- x REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 28, 1997, and AMENDED June 24, 1997, and July 14, 1997, STILL APPLY.
- OTHER - See comments below.

SUMMARY OF BILL

This bill would allow the department to determine that a corporation is exempt from state income or franchise tax if that corporation: (1) is not incorporated in California, (2) stores inventory in the state, (3) would be exempt from state income or franchise taxation under federal law except for the physical presence of the inventory stored in the state, and (4) does not use employees or independent contractors physically located in this state to perform any processing or manufacturing activities in this state.

SUMMARY OF AMENDMENT

The June 23, 1998, amendment adopted the amendment proposed by the department, thereby resolving the technical concern in the department's analysis of the bill as amended July 14, 1997. Except for the Technical Consideration and the Revenue Estimate, which has been updated to reflect enactment in 1998, the remainder of the department's analyses of the bill as amended July 14, 1997, and June 24, 1997, and as introduced February 28, 1997, still apply.

EFFECTIVE DATE

This bill specifies that it would apply retroactively to income years beginning on or after January 1, 1997.

IMPLEMENTATION CONSIDERATION

In defining a "public or contract warehouse," this bill limits the term to certain warehouses that only provide space for receiving, storing, and distributing a depositor's product, but also allows for "packaging services or repackaging services," as defined. The wording of this statute could lead to disputes with taxpayers and should be clarified as noted in the attached amendment 1.

Board Position:

<u> X </u> S	<u> </u> NA	<u> </u> NP
<u> </u> SA	<u> </u> O	<u> </u> NAR
<u> </u> N	<u> </u> OUA	<u> </u> PENDING

Department/Legislative Director

Date

Johnnie Lou Rosas

7/10/98

TECHNICAL CONSIDERATION

Pursuant to a discussion with the author's staff, amendment 2 would change the operative date contained in the bill to apply to income years beginning on or after January 1, 1998. If the operative date is not changed, the bill would constitute a gift of public funds and additional amendments would be necessary to allow for a retroactive operative date.

TAX REVENUE ESTIMATE

Based on assumptions discussed below, revenue losses from this bill are projected to be on the order of \$1 million annually beginning in 1998-99.

Estimated Revenue Impact of AB 1271 As Amended June 23, 1998 Effective For Income Years Beginning on or After January 1, 1997 [\$ In Millions]		
1998-9	1999-0	2000-1
(\$1)	(\$1)	(\$1)

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

REVENUE DISCUSSION

The above revenue estimate has been revised to reflect enactment in 1998 and assumes that the technical amendment will be accepted. If the technical amendment is not accepted and the bill retains the retroactive application to income years beginning on or after January 1, 1997, the 1998-9 revenue impact would be \$2 million.

The revenue impact of this bill would be determined by the number of corporations whose presence in California is stored inventory and would otherwise be taxable under current law.

Based on discussions with departmental staff, it is unlikely significant numbers of taxpayers would meet the specific category of California presence provided in this bill. It is assumed that no more than 500 entities with only a warehouse presence in California are paying the \$800 minimum tax. The number of businesses that would qualify under this bill potentially would increase because the bill, as amended, would allow the solicitation of sales. It is assumed that the number of additional entities with a warehouse presence and that solicit sales in California would equal the number of entities with only a warehouse presence (500), thereby increasing the revenue loss to the order of \$1 million annually.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1271
As Amended June 23, 1998

AMENDMENT 1

On page 3, modify line 17 as follows:

~~and may include any~~ but does not exclude a warehouse that also provides packaging

AMENDMENT 2

On page 3, line 29, strikeout "1997" and insert:

1998